

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

OTIS LEE RODGERS,

Plaintiff,

vs.

STATE OF OHIO, et al.,

Defendants.

Civil Action 2:14-cv-453
Judge Frost
Magistrate Judge King

ORDER

Final judgment dismissing this action has been entered. *Order*, ECF No. 85; *Judgment*, ECF No. 86. Accordingly, petitioner's motion to strike respondent's filing, ECF No. 88, is **DENIED** as moot.

Petitioner has filed a notice of appeal. *Notice of Appeal*, ECF No. 89. When a habeas claim has been denied on the merits, a certificate of appealability may issue only if the petitioner "has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This standard is a codification of *Barefoot v. Estelle*, 463 U.S. 880 (1983). See *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (recognizing codification of *Barefoot* in 28 U.S.C. § 2253(c)(2)). To make a substantial showing of the denial of a constitutional right, a petitioner must show "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" *Slack*, 529 U.S. at 484 (quoting *Barefoot*, 463 U.S. at 893, n. 4).

Upon review of the record, this Court is not persuaded that reasonable jurists could debate whether petitioner's claims should have been resolved differently. The Court therefore **DECLINES** to issue a certificate of appealability.

/s/ Gregory L. Frost
Gregory L. Frost
United States District Judge